

Pursuant to Ind.Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.

ATTORNEY FOR APPELLANT:

**TIMOTHY J. BURNS**  
Indianapolis, Indiana

ATTORNEYS FOR APPELLEE:

**STEVE CARTER**  
Attorney General of Indiana

**BARBARA A. NARDI**  
Deputy Attorney General  
Indianapolis, Indiana

---

**IN THE  
COURT OF APPEALS OF INDIANA**

---

LATOYA BONDS,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 49A04-0609-CR-495
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

---

APPEAL FROM THE MARION SUPERIOR COURT  
The Honorable Barbara Collins, Judge  
Cause No. 49F08-0604-CM-64428

---

**March 29, 2007**

**MEMORANDUM DECISION – NOT FOR PUBLICATION**

**RILEY, Judge**

## STATEMENT OF THE CASE

Appellant-Defendant, Latoya Bonds (Bonds), appeals her conviction for disorderly conduct, as a Class B misdemeanor, Ind. Code § 35-45-1-3.

We affirm.

## ISSUES

Bonds raises two issues on appeal, which we restate as:

- (1) Whether the State presented sufficient evidence to convict Bonds of disorderly conduct; and
- (2) Whether the trial court properly sentenced Bonds.

## FACTS AND PROCEDURAL HISTORY

On April 6, 2006, the Indianapolis Police Department (IPD) was called three times to 1931 Glen Ridge Drive as a result of a street fight involving nearly thirty people. Later that afternoon, Bonds and two friends went to another friend's home in the same area. Upon arriving, the three came upon a crowd of people and exited their vehicle. Bonds' friend, Ronika Rogers (Rogers), became involved in a physical altercation with Diane Smith (Smith). When Bonds went to assist Rodgers, Rodgers was pulled further into a group of fighting females, and Bonds was hit in the cheek by Chernika Coe (Coe). Bonds responded by punching Coe in the chest, and the two also continued to hit each other in the face. Further, Bonds kicked and punched Smith.

On April 10, 2006, the State filed an Information charging Bonds with battery, as a Class A misdemeanor, I.C. 35-42-2-1. On May 11, 2006, the trial court granted a motion by the State to amend the Information, adding the charge of disorderly conduct, a

Class B misdemeanor, I.C. § 35-45-1-3. On June 29-30, the trial court held a bench trial as to Bonds and three co-defendants. At its conclusion, the trial court found Bonds guilty of disorderly conduct. On the same date, the trial court sentenced Bonds to 180 days in Community Corrections.

Bonds now appeals. Additional facts will be provided as necessary.

## DISCUSSION AND DECISION

### *I. Sufficiency of the Evidence*

Bonds first contends that the State failed to present sufficient evidence to convict her of disorderly conduct. Specifically, Bonds argues that in hitting, kicking, and punching the two victims, she acted in self-defense.

Our standard of review for a sufficiency of the evidence claim is well settled. In reviewing sufficiency of the evidence claims, we will not reweigh the evidence or assess the credibility of the witnesses. *Cox v. State*, 774 N.E.2d 1025, 1028-29 (Ind. Ct. App. 2002). We will consider only the evidence most favorable to the judgment, together with all reasonable and logical inferences to be drawn therefrom. *Alspach v. State*, 775 N.E.2d 209, 210 (Ind. Ct. App. 2001), *trans. denied*. The conviction will be affirmed if there is substantial evidence of probative value to support the conviction of the trier of fact. *Cox*, 774 N.E.2d at 1028-29.

In pertinent part, a person commits disorderly conduct as a Class B misdemeanor when such person recklessly, knowingly, or intentionally engages in fighting or in tumultuous conduct. I.C. § 35-45-1-3. Here, our review of the record shows that Coe testified at the trial that Bonds punched her in the chest. The record also reveals

testimony by Smith that Bonds kicked her in the side. While Bonds' testified only that she hit Coe in self-defense, we are not at liberty to reweigh the testimony and evidence before us. See *Cox*, 774 N.E.2d at 1028-29. Even though a valid claim of self-defense is a legal justification for an act that is otherwise defined as "criminal," in order to prevail, a defendant must show that he or she was in a place where the defendant had a right to be, did not provoke, instigate, or participate willingly in the violence, and had a reasonable fear of death or great bodily harm. I.C. § 35-41-3-2(a); *see also Pinkston v. State*, 821 N.E.2d 830, 842 (Ind. Ct. App. 2004), *trans. denied*. In the instant case, we find evidence in the record that Bonds participated willingly in the altercations when she injected herself into the street violence. Accordingly, we conclude there is no merit in Bonds' self-defense argument and that the State presented sufficient evidence that she committed disorderly conduct.

## II. Sentence

Second, Bonds argues that her sentence is inappropriate. Specifically, she contends that it was error for the trial court to give her the maximum sentence for a Class B misdemeanor, 180 days, because she is a first-time offender.

Bonds was sentenced under Indiana's new advisory sentencing scheme, which went into effect on April 25, 2005. Under this scheme, "Indiana's appellate courts can no longer *reverse* a sentence because the trial court abused its discretion by improperly finding and weighing aggravating and mitigating circumstances." *McMahon v. State*, 856 N.E.2d 743, 748-49 (Ind. Ct. App. 2006) (emphasis added). Thus, appellate review of sentences in Indiana is now limited to Appellate Rule 7(B). *Id.* As such, the burden is on

the defendant to persuade this court that his or her sentence is inappropriate. *Id.* at 749. Nonetheless, an assessment of aggravating and mitigating circumstances is still relevant to our review under Rule 7(B), which provides: “The [c]ourt may revise a sentence authorized by statute if, after due consideration of the trial court’s decision, the [c]ourt finds that the sentence is inappropriate in light of the nature of the offense and the character of the offender. *Id.* at 748-49.

In our view, despite Bonds’ lack of a criminal history, the nature of the offense warrants the punishment invoked by the trial court. First, the record reflects that Bonds engaged in fighting with at least two individuals over a lengthy period of nearly thirty minutes. In addition, the record shows that Bonds fought with her co-defendants through separate acts of hitting, punching, and kicking. We are not inclined to consider a first offense involving such violence as less than a serious one. Furthermore, as noted by the trial court at sentencing, Community Corrections is likely to order that Bonds serve her 180-sentence on home detention. Under these circumstances, we find the trial court’s sentence entirely appropriate.

### CONCLUSION

Based on the foregoing, we conclude that the State presented sufficient evidence that Bonds committed disorderly conduct and that the trial court properly sentenced Bonds.

Affirmed.

FRIEDLANDER, J., concur

KIRSCH, J., concurs in part and dissents in part with separate opinion.

---

**IN THE  
COURT OF APPEALS OF INDIANA**

---

LATOYA BONDS,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 49A04-0609-CR-495
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

---

APPEAL FROM THE MARION SUPERIOR COURT  
The Honorable Barbara Collins, Judge  
Cause No. 49F08-0604-CM-644

---

**KIRSCH, Judge, *concurring in part and dissenting in part.***

I fully concur in the decision of the majority affirming Bonds’ conviction, but I find that Bonds’ 180-day sentence—the maximum for a Class B misdemeanor—inappropriate given Bonds’ lack of criminal history. I would reverse the sentence and remand with instructions to sentence Bonds to ninety days.